

the “Duluth-Superior” standard metropolitan statistical area, has two “central” cities, namely Duluth and Superior; both appear in the title of the standard metropolitan statistical area, and both are regarded as “principal” cities for purposes of the section 13(b)(9) exemption. Where, as in the example, more than one city is designated as the “central” city airline mileage will be measured from that “central” city which is nearest to the city or town in which the major studio of the radio or television station is located.

(f) *Determining the population.* The population of a city or town, or of a standard metropolitan statistical area, will be determined by the latest available decennial census figures as compiled by the U.S. Bureau of the Census.

(g) *Measuring airline miles.* Airline miles for purposes of the section 13(b)(9) exemption are measured, with a straight edge on a map, from the zero milestone, or the city hall, of the “central” city, to the zero milestone, or city or town hall, of the city or town in which the major studio of the radio or television station is located.

#### WORKWEEK APPLICATION OF EXEMPTION

##### § 793.19 Workweek is used in applying the exemption.

The unit of time to be used in determining the application of the exemption under section 13(b)(9) to an employee is the workweek. (See *Overnight Motor Transportation Co. v. Missel*, 316 U.S. 572; *McComb v. Puerto Rico Tobacco Marketing Co-op Ass’n.*, 80 F. Supp. 953, affirmed, 181 F. 2d 697.) A workweek is a fixed and regularly recurring period of 7 consecutive 24-hour periods. It may begin at any hour of any day set by the employer and need not coincide with the calendar week. Once the workweek has been set it commences each succeeding week on the same day and at the same hour. The workweek may not be changed for the purpose of evading the requirements of the Act.

##### § 793.20 Exclusive engagement in exempt work.

An employee who engages exclusively in a workweek in work which is exempt under section 13(b)(9) is exempt

from the Act’s overtime requirements for the entire week.

##### § 793.21 Exempt and nonexempt work.

Where an employee in the same workweek performs work which is exempt from the overtime requirements of the Act under section 13(b)(9), and also engages in work to which the overtime requirements apply, he is not exempt from overtime provisions of the Act in that week. (See *McComb v. Puerto Rico Tobacco Marketing Co-op Ass’n.*, 80 F. Supp. 953, affirmed, 181 F. 2d 697; *Mitchell v. Hunt*, 263 F. 2d 913; *Abram v. San Joaquin Cotton Oil Co.*, 46 F. Supp. 969; *McComb v. del Valle*, 80 F. Supp. 945; *Walling v. Peacock Corp.*, 58 F. Supp. 880.) As explained in § 793.13, work which does not come within the occupational duties of an announcer, news editor, or chief engineer, or which is not related and incidental thereto, is not exempt work under section 13(b)(9). The mere isolated or occasional performance of insubstantial amounts of such nonexempt work will not defeat the exemption for the employee. Where, however, an employee, in a particular workweek, performs a substantial amount of nonexempt work to which the overtime provisions of the Act are applicable, the employee is not exempt under section 13(b)(9) in that workweek. For administrative purposes an employee who spends 20 percent or more of the hours he works in a workweek in such nonexempt work, will not be considered exempt under section 13(b)(9) in that workweek.

#### PART 794—PARTIAL OVERTIME EXEMPTION FOR EMPLOYEES OF WHOLESALE OR BULK PETROLEUM DISTRIBUTORS UNDER SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT

##### Subpart A—General

###### Sec.

- 794.1 General scope of the Act.
- 794.2 Purpose of this part.
- 794.3 Matters discussed in this part.
- 794.4 Significance of official interpretations.
- 794.5 Basic support for interpretations.
- 794.6 Reliance on interpretations.